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BELLSOUTH

BellSouth
Suite 900
1133-21st Street, N.W.
Washington, D.C. 20036-3351

ben.almond@bellsouth.com

Ben G. Almond
Vice President-
Federal Regulatory

202 463-4112
Fax 202 463-4198

September 14, 2000

RECEIVED

SEP 14 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: Promotion of Competitive Networks in Local Telecommunications Markets (WT Docket No. 99-217); Implementation of Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96-98) **EX PARTE**
Erratum (WT Docket No. 99-217)

Dear Ms. Salas:

On September 6, the attached ex parte was filed incorrectly under WT Docket No. 97-213. The correct docket number is WT Docket No. 99-217.

Please associate this notification and erratum accordingly.

Sincerely,

Ben G. Almond

Ben G. Almond
Vice President-Federal Regulatory

Cc: Adam Krinsky
Clint Odom
Helgi Walker
Jordan Goldstein
Peter Tenhula

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RE: Promotion of Competitive Networks in Local Telecommunications Markets (WT Docket No. 99-217); Implementation of Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96-98) **EX PARTE**

Dear Ms. Salas:

On September 5 and 6, 2000, representatives of Verizon Communications, SBC Communications, Inc. and BellSouth Corporation met in separate meetings with Legal Advisors for Chairman William E. Kennard and the Commissioners concerning issues related to the above referenced proceedings.

The attached document was used for discussion purposes. Please associate this notification and the accompanying material with the referenced docket proceedings.

On September 5, 2000, Jared Craighead of SBC, Scott Randolph of Verizon, Keith Milner and Ben Almond both of BellSouth Corporation met in separate meetings with Adam Krinsky of Commissioner Gloria Tristani's office; Peter Tenhula of Commissioner Michael K. Powell's office; and Clint Odom of Chairman William E. Kennard's office. On September 6, Jared Craighead of SBC, Scott Randolph of Verizon and Ben Almond of BellSouth Corporation met in separate meetings with Helgi Walker of Commissioner Furchtgott-Roth's office and Jordan Goldstein of Commissioner Ness's office.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,

Ben G. Almond

Ben G. Almond
Vice President – Federal Regulatory

Attachment

Cc: Adam Krinsky, Clint Odom, Helgi Walker, Jordan Goldstein, Peter Tenhula

COMPETITIVE NETWORKS

BELLSOUTH, SBC & VERIZON
EX PARTE PRESENTATION
WT DOCKET NO. 99-217 AND CC DOCKET NO. 96-98

SEPTEMBER 6, 2000

Doc. No. 129625

SUMMARY

- THE MOST EFFECTIVE WAY TO ENSURE COMPETITIVE ACCESS IN A MULTI-TENANT ENVIRONMENT ("MTE") IS TO REQUIRE ALL TELECOMMUNICATIONS CARRIERS TO PROVIDE ACCESS TO INTRA-BUILDING WIRING AND FACILITIES THAT THEY OWN OR CONTROL.

- THE FCC SHOULD NOT MODIFY THE CURRENT PART 68 RULE TO REQUIRE LOCATION OF THE DEMARCATION POINT AT THE MINIMUM POINT OF ENTRY ("MPOE").

- THE FCC SHOULD ESTABLISH CERTAIN PRO-COMPETITIVE POLICIES IN ORDER TO PROMOTE ACCESS IN MTES.

THE MOST EFFECTIVE WAY TO ENSURE COMPETITIVE ACCESS IN A MULTI-TENANT ENVIRONMENT ("MTE") IS TO REQUIRE ALL TELECOMMUNICATIONS CARRIERS TO PROVIDE ACCESS TO INTRA-BUILDING WIRING AND FACILITIES THAT THEY OWN OR CONTROL.

- Existing interconnection and unbundling rules already require ILECs to provide non-discriminatory access to their networks.

- CLECs should be held to similar obligations. The FCC has clear authority to regulate the actions of CLECs in this area. As telecommunications carriers, CLECs are subject to Sections 201(b) and 202(a) of the 1934 Act, which proscribe unreasonable practices and prohibit unreasonable discrimination by *any* carrier.

- Accordingly, the FCC should find that is an unreasonable and discriminatory practice under Sections 201(b) and 202(a) for *any* telecommunications provider to deny access, where technically and operationally feasible, to intra-building wire or facilities they own or control.

THE FCC SHOULD NOT MODIFY THE CURRENT PART 68 RULE TO REQUIRE LOCATION OF THE DEMARCATION POINT AT THE MINIMUM POINT OF ENTRY ("MPOE").

- Property owners, CLECs, and ILECs[1] agree that the current demarcation rule should be retained.
  - The Real Access Alliance acknowledges "that moving the demarcation point would be much more complicated than it first appeared" and therefore "urges the Commission to retain its existing rule."[2]

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[1] *See, e.g., Ex Parte* on behalf of BellSouth, SBC, and Verizon, Letter from W. Scott Randolph, Director - Regulatory Matters, Verizon Communications, to Magalie R. Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98, at 2-3 (dated Aug. 24, 2000); BellSouth Written *Ex Parte*, Letter from Angela N. Brown, Attorney, to Magalie Roman Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98 (dated Aug. 24, 2000) (Correction); *Ex Parte* Presentation from Ben G. Almond, Vice President-Federal Regulatory, BellSouth, to Magalie Roman Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98, at 14-16 (dated July 13, 2000); *Ex Parte* Presentation on behalf of Bell Atlantic, BellSouth, GTE, and SBC from Ben G. Almond, Vice President-Federal Regulatory, BellSouth, to Magalie Roman Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98 (dated June 7, 2000).

[2] *Ex Parte* Presentation, Letter from Matthew C. Ames, Counsel for the Real Access Alliance, to Jeffrey S. Steinberg, Esq., Deputy Chief, Commercial Wireless Division, WT Docket No. 99-217 and CC Docket No. 96-98, at 2 (dated Aug. 24, 2000).

- Even CLECs correctly recognize that "establishing the demarcation point at the MPOE may . . . worsen the plight of CLECs . . . "[3] by restricting access. For example, Allegiance Telecom is opposed to designating the MPOE as the mandatory demarcation point and "is concerned that any such redefinition of the demarcation point may impair, rather than promote, the development of competition by limiting or eliminating the access that competitive LECs currently have to the infrastructure they need to serve their end users."[4]

- The current rule provides property owners and carriers with the flexibility to determine the best location of the demarcation point on a case-by-case basis in light of the specific needs of the owners and tenants.

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[3] *Ex Parte* Presentation, Letter from Gunnar D. Halley, Attorney for the Association For Local Telecommunications Services, to Kathy Farroba, Deputy Chief, Policy & Planning Division, Common Carrier Bureau, WT Docket No. 99-217 and CC Docket No. 96-98, at 1 (dated Aug. 4, 2000).

[4] *Ex Parte* Presentation, Letter from Mary C. Albert, Regulatory Counsel, Allegiance Telecom, to Magalie Roman Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98, at 1 (dated Aug. 23, 2000); *see also* Letter from Jason D. Oxman, Covad Communications Company, to Leon Jackler, Wireless Telecommunications Bureau, WT Docket No. 99-217 (dated Aug. 24, 2000).

- Forcing MPOE on all property owners could: (1) result in chaotic service provisioning and service degradation[5] and (2) impede the deployment of new broadband services (*e.g.*, fiber in the loop and high-speed data services in highrise buildings).[6]

- Accordingly, the FCC should allow current market forces and the existing demarcation rule to work.[7]

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[5] The FCC must keep in mind its statutory duty "to ensure the ability of end users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks." 47 U.S.C. § 256(a)(2).

[6] *See* BellSouth Written *Ex Parte*, Letter from Angela N. Brown, Attorney, to Magalie Roman Salas, Secretary, FCC, WT Docket No. 99-217 and CC Docket No. 96-98, at 7-8 (dated Aug. 24, 2000) (Correction).

[7] A rigid mandatory MPOE rule would undermine the primary purpose of the 1996 Act – to establish a "pro-competitive, deregulatory national framework." Joint Managers' Statement, S. Conf. Report No. 104-230, 104th Cong., 2d Sess. 113, at 1 (1996).

THE FCC SHOULD ESTABLISH CERTAIN PRO-COMPETITIVE POLICIES IN ORDER TO PROMOTE ACCESS IN MTES.

- The FCC should find that it is presumptively unreasonable for service providers to sign exclusive agreements for access to intra-building wiring and facilities and to sign exclusive contracts that prohibit other providers from using or installing such wiring or facilities.

- Both federal and state authorities should prohibit non-value added "gatekeeper" access fees or other more subtle "symbiotic financial relationships."[8]

[8] *See Ex Parte* Presentation, Letter from Phillip L. Verveer, Counsel for the Smart Buildings Policy Project, to Magalie Roman Salas, WT Docket No. 99-217 and CC Docket No. 96-98, at 3 (dated Aug. 1, 2000).